


STATE OF MISSOURI
COUNTY OF OSAGE

AFFIDAVIT OF CUSTODIAN PURSUANT TO SECTION 490.692 RSMO

Before me, the undersigned authority, personally appeared Dedie Troesser, who stated as follows.

My name is Dedie Troesser. I am of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated:

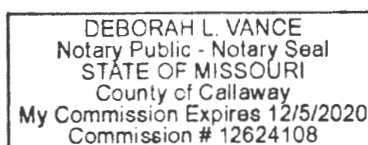
I am a Custodian of Records of the Missouri Division of Probation and Parole. Attached hereto are **9 page** of records from the Missouri Division of Probation and Parole pertaining to **P3-8.1 Violation Investigation and Response**. These records are kept in the regular course of business, and it was in the regular course of business for an employee or representative with knowledge of the act, event, condition, opinion or diagnosis recorded to make the record or to transmit information thereof to be included in such record, and the record was made at or near the time of the act, event, condition, opinion, or diagnosis. The records attached hereto are exact duplicates of the original.


Dedie Troesser

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal this 24th day of October, 2019

Deborah L. Vance
Notary Public

Commission expires: 12.5.2020



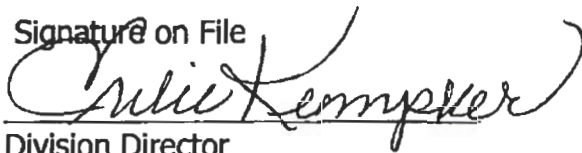
MISSOURI DEPARTMENT OF CORRECTIONS
DIVISION OF PROBATION AND PAROLE

**** POLICY AND PROCEDURE MANUAL ****

PROCEDURE TITLE:
Violation Investigation and Response

PROCEDURE NO. P3-8.1

Signature on File



Division Director

EFFECTIVE DATE:
July 24, 2019

I. PURPOSE

This procedure provides staff guidance on investigating, documenting and responding to violations.

A. AUTHORITY: 195.205, 217.040, 217.705, 217.720, 217.722, and 559.036 RSMo

B. APPLICABILITY: All divisional staff

C. SCOPE: Nothing in this procedure is intended to give a protected liberty interest to any client. This procedure is intended to guide staff actions.

II. DEFINITIONS

A. Absconder - A client under supervision who has left their residence without the permission of the supervising officer for the purpose of avoiding supervision.

B. Agency Sanction - A Notice of Citation prepared solely for use by the Probation and Parole Officer and not distributed to the court or Parole Board.

C. Automated Road Book - An electronic source of documented activities and information regarding a client.

D. Chief Administrative Officer (CAO) - The chief administrative officer is the highest-ranking individual at the worksite, as designated below. Exception: Employees at worksites who do not report to the worksite chief administrative officer shall be accountable to the assistant division directors/central office section heads in their chain of command.

1. Division Director
 2. Assistant Division Director
 3. Deputy Division Director
 4. Regional Administrator
 5. Superintendent (as applicable)
 6. District Administrator
- E. Debt Collection Program Vendor - A private collection company that has been contracted by a collection authority to collect financial obligations that are owed.
- F. Discretionary Violation - A violation of supervision which does not require a report to be submitted to the court or Parole Board.
- G. Good Samaritan Law - Under this law (195.205 RSMo), the person who seeks or obtains medical assistance for someone, seeks medical assistance for himself or herself or is the subject of a good faith request in the instance of an overdose (or other medical emergency) shall not be penalized in any way for action that would otherwise be any of the following offenses:
- a. Keeping or Maintaining a Public Nuisance (RSMo 579.105)
 - b. Possession of a Controlled Substance (RSMo 579.015)
 - c. Possession of an Altered ID (RSMo 311.320)
 - d. Possession of an Imitation Controlled Substance (RSMo 579.078)
 - e. Possession of Drug Paraphernalia (RSMo 579.074)
 - f. Purchase or Possession of Alcohol by a Minor (RSMo 311.325)
 - g. Sale of Alcohol to a Minor (RSMo 311.310)
 - h. Violation of a Restraining Order
 - i. Violation of Probation or Parole
- H. Law Violation - An arrest, charge, or indictment for the violation of a federal, state, county, or municipal law ordinance.
- I. Mandatory Violation - Violations of supervision which require a report to be submitted to the court or Parole Board.
- J. Missouri Offender Management Matrix (MOMM) - A tool which guides responses to both positive and negative behaviors by incorporating best practices such as:
1. Use of incentives to promote and sustain positive behaviors,

2. Use of a range of incentives and sanctions to tailor responses to the individual's specific behavior,
 3. Ability to graduate incentives and sanctions within each level of response,
 4. Expanded community based options to promote behavior change within the least restrictive option while maintaining public safety,
 5. Swift sanctions with increased officer discretion, and
 6. Linkage to criminogenic needs and case planning.
- K. Notice of Citation - A report completed in lieu of a Violation Report.
- L. Probable Cause - Information sufficient to cause a prudent person to believe the facts are probably true, having more evidence for than against.
- M. Standard Operating Procedure (SOP) - Worksite requirements that describe specific tasks, actions or activities relative to the organization's procedures.
- N. Supervisor Violation Staffing - A discussion with a District Administrator, or designee, when the violation response level is being enhanced or decreased.
- O. Technical Violation - A violation of any supervision condition except for Condition #1- Laws.
- P. Victim - A person or business who suffers direct or threatened physical, emotional or financial harm as the result of the commission or attempted commission of a crime. The term "victim" also refers to the family members of a minor, incompetent, or homicide victim.
- Q. Violation - Willful action, or inaction, which is prohibited by the supervision conditions established by the court or Parole Board.
- R. Violation Interview - An opportunity provided to the client to make a formal statement regarding the alleged violation(s) of supervision.
- S. Violation Report - Formal notice to the court or Parole Board that a client has failed to comply with conditions of supervision.
- T. Violation Response - Case interventions developed by the supervising officer, either independently or by direction of the court or Parole Board, in response to a violation.
- U. Willful Failure to Pay - When the client knowingly refuses to make payment and there is evidence funds have been available for the client to make the required payments.

III. PROCEDURE

A. Investigation of a Violation

1. An allegation must be substantiated before it is processed as a violation.
 - a. Any arrest by law enforcement shall be considered substantiated.
 - b. The probable cause standard shall be used when substantiating a technical violation.
2. If it is discovered an undocumented violation occurred prior to revocation and placement on the current term of supervision, then a Violation Report (VR) or Notice of Citation (NOC) shall not be submitted. This information shall be documented in the agency computer system.
3. A motion to revoke may be filed by the prosecuting attorney or a hearing may be set by the court without a VR or NOC being submitted. The officer shall then consult with a supervisor to determine if a VR or NOC is needed.

B. Violation Response

1. Staff shall utilize the Missouri Offender Management Matrix (MOMM) when addressing violations of supervision conditions.
2. Client participation is critical when developing a plan in response to a violation.

C. Documentation of a Violation

1. Automated Road Book (ARB)

- a. All violations shall be documented as they are identified and substantiated.
- b. Any plan developed as a violation response shall be recorded as a PLN entry in ARB.

2. Notice of Citation

- a. The following violations shall be documented in a mandatory NOC, unless a VR is applicable:
 - 1) drugs (except in situations where the Good Samaritan Law appears to apply as this requires a VR),
 - 2) directives for failing to produce a urinalysis, attempting or actual adulteration, substitution or dilution of a specimen,
 - 3) intervention fees when the client willfully fails to pay or refuses to pay over 90 days (after which no further reports are required),

- 4) municipal and misdemeanor charges, excluding Driving While Intoxicated offenses when the client is a Parole Board case, and when there is no victim involved and no court or Parole Board action is recommended,
 - 5) violation(s) of supervision agreements, when court or Parole Board action is not being recommended, and
 - 6) special conditions
- b. A NOC may be submitted as an agency sanction for the following discretionary violations (unless a VR is otherwise mandated):
- 1) Travel
 - 2) Residency
 - 3) Employment
 - 4) Association
 - 5) Reporting/Directives
 - 6) Supervision Strategies
- c. When a NOC is submitted for a law violation, the obtained police report(s) shall be maintained in the client's file until no further action is taken by the court(s) regarding the violation.

3. Violation Reports

VRs shall be submitted for the following mandatory violations:

- a. Laws
- 1) all felony offenses;
 - 2) municipal or misdemeanor charges when there is a victim involved, or when recommending Delayed Action;
 - 3) municipal or misdemeanor Driving While Intoxicated offenses when the client is a Parole Board case;
 - 4) if the Good Samaritan Law appears to apply, then the PPO shall submit a VR recommending Continuance. The PPO shall note in the recommendation section of the report that a penalty is not being recommended as the Good Samaritan Law likely applies;

- a) If the court specifically states the violation is dismissed, then an override for Earned Compliance Credits shall be entered for the month(s) of credit lost,
 - b) For Parole Board cases, an override for the month(s) of lost Earned Compliance Credits shall be entered upon the receipt of a Board Staff Advisory (BSA) dismissing the violation;
- 5) When a VR is submitted for a law violation, the obtained police report(s) shall be maintained in the client's file until no further action is taken by the court(s) and/or the Parole Board regarding the violation.
- b. Weapons
- c. Absconding or avoiding supervision
- d. Violation(s) of supervision agreements, only when court or Parole Board action is being requested
- e. Violation(s) of special conditions
 - 1) when the special condition is directly related to an immediate public safety risk (for example, no contact with a victim); or
 - 2) if a special condition has not been completed 120 days prior to expiration. Exceptions to this are as follows:
 - a) Financial obligations owed to a sending state;
 - b) Unless specified by local court practices or a special condition with a specific payment plan, a VR is not required at any time for non-payment of court costs if the case has been sent to a debt collection program vendor. Court ordered financial obligation payments are not monitored following the transition to a debt collection program vendor;
- f. A VR shall be submitted when the recommendation is for the court or Parole Board to take action.
- g. A VR shall be completed simultaneously with the issuance of a warrant. When a warrant is issued in an emergency situation, the VR shall be completed within two business days.
- h. A VR shall be submitted when a preliminary hearing applies.

- i. If the most recent VR recommends Delayed Action, Suspension, Revocation or Court Ordered Detention Sanction (CODS), and the court, Parole Board or interstate authority has not responded, then a VR, rather than a NOC, shall be used until all pending violations have been resolved.
- j. When a previous VR recommends Delayed Action or Revocation, any subsequent VR recommendation shall override the previous recommendation for Delayed Action or Revocation.

D. Supervisor Violation Staffing

1. The Chief Administrative Officer (CAO)/designee is responsible for establishing a supervisor violation staffing process, which shall be communicated to all district staff through Standard Operating Procedures (SOP).
2. If the supervisor violation staffing for a VR with technical violations only results in a recommendation for Revocation, then the specific reason why community based supervision strategies are inappropriate shall be included in the recommendation section of the VR.

E. Court Request for Violation Report after Receipt of a Notice of Citation

When the court specifically requests a VR be submitted, sets a Probation Violation Hearing or issues a capias after receiving a NOC:

1. a violation interview shall be conducted;
2. an Initial VR shall be completed, as detailed in divisional procedure; and
3. if the Initial VR results in the loss of an additional 30 days of ECC, then an ECC override shall be entered, unless a probation violation hearing is set.

F. Timeframes

1. Hearing Officer Report - within two business days of the completion of the hearing.
2. Initial Violation Report -
 - a. within 10 business days of substantiating the violation, or
 - b. by the next business day following the violation interview for a Parole Board case in custody on a DOC warrant and continuance or delayed action is being recommended.
3. Notice of Citation - within 10 business days of substantiating the violation.

4. Off Records Case Report - within 10 business days of receiving additional information or substantiating a new law violation.
5. Supplemental Violation Report –
 - a. within 10 business days of receiving additional information, or
 - b. by the next business day following the violation interview for a Parole Board case in custody on a DOC warrant and continuance is being recommended.

G. Distribution

1. For Violation Reports:
 - a. copy to the client;
 - b. copy to the file; and
 - c. copy to the sentencing authority.
2. For Notice of Citations:
 - a. copy to the client;
 - b. copy to the file;
 - c. agency sanctions are not distributed to the court or Parole Board, however, shall be distributed to the originating district, if applicable, and distributed according to local court practices;
 - d. only citations for Condition #1 - Laws are submitted to the Parole Board; and
 - e. only mandatory citations are submitted to the court.

IV. ATTACHMENTS/FORMS

None

V. REFERENCES

P3-X.X	Missouri Offender Management Matrix (MOMM)
P3-4.7	Directives and Special Conditions
P3-4.14	Automated Road Book
P3-5.4	Court or Parole Board Ordered Financial Obligations
P3-5.7	Suspended Probation Cases
P3-7.1	Warrant Procedures

P3-8.3	Violation Report - Format
P3-8.4	Notice of Citation Format
P3-9.1	Preliminary Hearing General Procedures
P3-9.3	Preliminary Hearing Report
P7-1.1	Policy and Procedure Development

VI. HISTORY

Original effective date:
Revision effective date: December 30, 2004
Revision effective date: October 15, 2006
Revision effective date: July 23, 2007
Revision effective date: May 8, 2008
Revision effective date: January 17, 2011
Revision effective date: August 28, 2012
Revision effective date: January 8, 2016
Revision effective date: August 1, 2017
Revision effective date: June 1, 2019
Revision effective date: July 24, 2019